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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 WILLIAM J. BERRY, JR., CYNTHIA
7 FALLS, SHANE KAUFMANN,

8 Plaintiffs,

9 v.

10 DESERT PLACE, INC. d/b/a CAESARS
PALACE, et al.,

11 Defendants.
12

Case No. 2:17-cv-00019-GMN-BNW

ORDER

13 Presently before the court is plaintiffs' Motion for Leave to File Under Seal Appendix 3 of
14 Exhibits in Support of Opposition to Motion for Summary Judgment (ECF No. 105), filed on
15 February 15, 2019. Plaintiffs request that various exhibits in support of their opposition to
16 defendant, Desert Palace, Inc.'s, motion for summary judgment (ECF. No. 99) be filed under seal.
17 Defendants did not oppose plaintiffs' motion.

18 Generally, the public has a right to access judicial records. *Kamakana v. City & Cnty. of*
19 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). As a result, there is a strong presumption in favor
20 of public accessibility, and a party seeking to seal a judicial record "bears the burden of
21 overcoming this strong presumption." *Id.*


22 When a party seeks to seal documents related to a dispositive motion, as is the case here,
23 the party "must articulate compelling reasons supported by specific factual findings" that
24 outweigh the public policies favoring disclosure. *Id.* at 1178-79 (alteration and internal quotation
25 marks and citations omitted). On the one hand, sufficiently compelling reasons generally exist
26 when court files "might have become a vehicle for improper purposes, such as the use of records
27 to gratify private spite, promote public scandal, circulate libelous statements, or release trade
28 secrets." *Id.* at 1179 (quotation omitted). On the other hand, the fact that documents were subject

1 to a protective order during discovery does not, by itself, present a compelling reason for sealing
2 the documents. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003)
3 (presumption of access is not rebutted when documents subject to a protective order are filed
4 under seal as attachments to a dispositive motion; “compelling reasons” standard continues to
5 apply).

6 Here, plaintiffs are asking to seal several exhibits related to a case-dispositive motion.
7 Plaintiffs make two arguments regarding why these exhibits should be sealed: (1) “the majority
8 of them have been marked as ‘Confidential’ in discovery” and (2) “they contain private,
9 confidential, or propriety information about Caesars’ customers, employees, and/or financial
10 information (or relate to deposition testimony about the same), and thus they constitute
11 ‘confidential information.’” (ECF No. 105 at 2.) Plaintiffs’ first argument fails because, as noted
12 above, the mere fact that documents were subject to a protective order in discovery does not
13 satisfy the “compelling reasons” standard for sealing documents. *See Foltz*, 331 F.3d at 1136.
14 Plaintiffs’ second argument also fails because it is conclusory; plaintiffs do not present
15 “compelling reasons supported by specific factual findings” as to why each of the requested
16 documents should be sealed. *Id.* Accordingly, the court denies plaintiffs’ motion to seal without
17 prejudice.

18 IT IS THEREFORE ORDERED plaintiffs’ Motion for Leave to File Under Seal
19 Appendix 3 of Exhibits in Support of Opposition to Motion for Summary Judgment (ECF No.
20 105) is DENIED without prejudice. If plaintiffs renew their motion, it must be filed by June 21,
21 2019 or plaintiffs’ exhibits will be unsealed.

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23 DATED: June 17, 2019

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26 BRENDA WEKSLER
27 UNITED STATES MAGISTRATE JUDGE
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